IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 135 of 2006
In
COMPANY APPLICATION No. 379 of 2006
With
COMPANY PETITION No. 136 of 2006
In
COMPANY APPLICATION No. 380 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

GUJARAT ROADLINES LTD. - Petitioner(s)
Versus
. - Respondent(s)

==========

Appearance :
MR AMAR N BHATT for Petitioner(s) : 1,
MR HARIN P RAVAL for Respondent(s) : 1,

==========

CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 17/09/2007

ORAL JUDGMENT

1. The present petitions are for sanctioning the Scheme of Amalgamation. The petitioner of Company Petition No.136 of 2006 is the Transferee Company and the petitioner of Company Petition No. 135 of 2006 is the Transferor Company. The Scheme which is proposed to be sanctioned is produced at Annexure-C in the petitions.

2. In Company Petition No. 135/06, pursuant to the order dated 19.07.2006 passed by this Court(Coram: A. S. Dave, J.) in Company Application No.379/06, the meeting of the equity shareholders and all the creditors were dispensed with. In Company Petition No.136/06, vide order dated 19.07.2006 passed by this Court (Coram :A.S. Dave, J.) in Company Application No.380/06, similarly, the meeting of the shareholders and all creditors were dispensed with.

3. Both these petitions came to be admitted on 08.08.2006 and it was ordered to advertise in two daily newspapers, i.e. English & Gujarat Daily, viz. Indian Express and Sandesh both Ahmedabad edition and the publication in the Government gazette was dispensed with. The notice was also ordered to be issued to the Central Government through Regional Director, Department of Company Affairs, Mumbai, and in case of Transferor Company, the notice was also issued to the Official Liquidator for examination through Chartered Accountant into the affairs of the Company.

4. The affidavit is filed by Dharmendra Mavjibhai Rathod, registered Clerk of the learned advocate Mr. Amar Bhatt

together with the copy of the paper publication pursuant to the order passed by this Court. As per the affidavit filed by Vikas Goyal, no objection is received by the petitioners or their learned advocate in response to the advertisement opposing the Scheme of Amalgamation or otherwise.

5. The Official Liquidator has filed the report dated 08.05.2007 with the report of the M/s. Nilesh Desai, Chartered Accountant and has stated in the report that the affairs of the transferor Company have not been conducted in a manner prejudicial to the interest of the members or public interest.

6. In response to the notice issued to the Central Government, Mr.P.L. Malik, Assistant Registrar of Companies has filed his affidavit raising objection based on the communication received by the Registrar of Companies vide letter dated 31.05.2007 from the Regional Director, Company Affairs.

7. In response to the objections, Mr. Vikas Goyal, as declared by the Mr. Bhatt during the course of hearing, as the Director of the Company, has filed the affidavit dated 17.07.2007, meeting with the objections raised on behalf of the Central Government.

8. The first objection pertains to the latest balance-sheet which has been with the aforesaid affidavit filed on behalf of the petitioner Company. Therefore, the said objection would not survive.

9. The second objection pertaining to non-utilisation of the authorised capital of the Transferor Company also would not survive in view of the declaration made in the aforesaid affidavit that the Transferee Company is not to utilise the authorised capital of the Transferor Company . Hence the Transferee Company shall abide by the aforesaid declaration.

10. The third objection pertains to the necessary approval of this Court in the event of the cancellation of the shares of the internal holding of the Company. In this regard, the declaration is made in the aforesaid affidavit that the approval of this Court shall be obtained for cancellation of the shares for internal holding. Therefore, the said objection also would not survive.

11. The last objection pertains to filing of Form No.61 online and as per the affidavit of Shri Goyal, online Form has been filed and the copy of the same is also produced with the said affidavit. Therefore, the said objection also would not survive.

12. No other adverse circumstances are brought to the notice of this Court.

13. Hence, subject to the aforesaid observations and the directions the present Scheme of Amalgamation is sanctioned as per the provisions of the Companies Act.

14. Petitions are allowed to the aforesaid extent.

15. The fees of the learned Asst. Solicitor General shall be paid by the petitioning Companies which is quantified at

Rs.3,500/- for each petition. It will be open to the petitioning Companies to pay the cost directly or to the counsel concerned by A/c. Payee cheque.

(JAYANT PATEL, J.)

*bjoy